

Prior law (R.S. 9:2772) granted a five-year preemptive period for actions against contractors in general involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon, but exempts from such preemptive period any action against any such contractor whose fraud has caused the breach of contract or damages sued upon.

New law retains prior law and adds that if fraud is alleged in nonresidential contracts in actions commenced after the five-year period and the court determines that the allegation was brought in bad faith and no fraud is found, then the party who made the allegation shall be liable for court costs and attorney fees. If fraud is proven, then the party that has committed the fraud shall be liable for court costs and attorney fees.

Effective August 15, 2010.

(Amends R.S. 9:2772(H)(2))